

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY, and
JEREMY KEEL, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**PLAINTIFFS' SUGGESTIONS IN RESPONSE TO
"MOTION OF OBJECTOR TANYA MONESTIER TO PUT NON-PUBLIC PROPOSED
ORDERS AND ASSOCIATED COMMUNICATIONS ON THE RECORD"**

Objector Tanya Monestier ("**Monestier**") has filed a Motion that requests the Court enter an Order requiring that "the Plaintiffs, Defendants and any other parties in this case disclose and *publicly file*" a variety of documents that include documents from other cases (*Gibson v. Nat'l Ass'n of Realtors, et al.*, Case No. 4:23-cv-00788-SRB (W.D. Mo.) ("**Gibson**"), and about other settlements to which Monestier lodged no objection. Doc. 1654 at 2 (emphasis in original).

Monestier's Motion should be denied as overbroad and contrary to the Local Rules and this District's CM/ECF Civil and Administrative Procedures Manual and Users Guide ("**ECF Manual**").¹ Plaintiffs briefly make three points in response to Monestier's Motion.

¹ This document is publicly available and posted on the District's website here: <https://www.mow.uscourts.gov/sites/mow/files/AdministrativeGuideandUserManual.pdf>

First, Monestier’s Motion misstates established and required practices in this District by suggesting that the procedure of emailing proposed orders to a Judge’s courtroom deputy has “kept [Monestier] in the dark about the record.” Doc. 1654 at 3. Not so. The parties were complying with the published directives in this District’s ECF Manual:

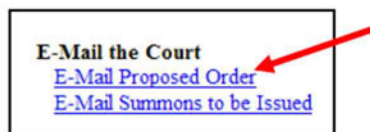
- F. **Proposed Order**: A draft document submitted by an attorney for a judge’s approval. A proposed order should not be attached to a motion or other request for relief as an electronic attachment to the document. Proposed Orders should be e-mailed to the judge’s courtroom deputy in Word format.

...

Submitting a Proposed Order

A document that is submitted in PDF format cannot be modified. Therefore, a proposed order must be submitted to the Court in Word format. All proposed orders must be e-mailed to the courtroom deputy for the presiding judge in the case in Word format which is available in most word processing software.

An option, *E-Mail Proposed Order*, is available on the Civil and Criminal CM/ECF menus to assist you in sending proposed orders to the court.



ECF Manual at 2, 8 (available at <https://www.mow.uscourts.gov/sites/mow/files/AdministrativeGuideandUserManual.pdf>). Monestier was not “kept in the dark” by the parties.

Second, Monestier’s Motion is overbroad and unsupported in that it includes requests relating to: (1) settlements with Anywhere Real Estate, Inc., RE/MAX, LLC, and Keller Williams Realty, Inc., which received final approval on May 9, 2024 (Doc. 1487) and to which Monestier lodged no objection; and (2) settlements with multiple defendants in the *Gibson* case, where again Monestier lodged no objection. With respect to these settlements and Orders of final approval, Monestier has no standing and no grounds to seek any relief.

Third, Monestier's requested relief is unnecessary. Monestier appears already to have the documents sought with respect to the only settlements to which Monestier objected, and there is no need or requirement for documents to be publicly filed to form part of the Record on Appeal in this Circuit. For example, in the prior interlocutory appeals in this case relating to the HomeServices Defendants' claimed rights to arbitration, Plaintiffs included in their Appellee Appendix similar non-publicly filed documents (*e.g.*, emailed letters regarding discovery disputes submitted to Chambers under Local Rule 37.1 and the Scheduling Order). Further, to date Monestier has not even filed a Notice of Appeal, so this Motion is both premature and unnecessary.

For the reasons stated above, Monestier's Motion should be denied.

December 16, 2024

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of December 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to counsel of record for this case.

/s/ Jeremy M. Suhr
Attorney for Plaintiffs